Remarks

Applicants have carefully reviewed the office action mailed January 13, 2004. Claims 1, 3, 5-6, 8-22, and 23-29 are pending. Claims 5, 8-20, and 24-27 were withdrawn. Claims 1, 3, 6, 21-22, and 28-29 were rejected. Claims 1 and 21 were amended and claim 3 was cancelled.

Claim Rejections—35 U.S.C. § 103

Claims 1, 3, 6, 21-22, and 28-29 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Auth et al. (U.S. Patent No. 5,827,229) in view of Hopkins et al. (U.S. Patent No. 6,544,279). Applicants respectfully disagree and traverse the rejection.

Claim 1, as amended by the incorporation of the elements of claim 3, is nonobvious over Auth et al. in view of Hopkins et al. Applicants submit that no prima facie case of obviousness has been made. To modify Auth et al. in view of Hopkins et al. would either render the device of Auth et al. less suitable for its intended purpose of aspiration, or would result in a device which lacked all the elements of claim 1.

If one were to merely substitute a filter on a guidewire for the guidewire of Auth et al., one would not produce a device which included all the claim elements. Claim 1 recites "wherein the distal opening of the catheter is dimensioned so that the vascular filter may be at least partially retracted in the lumen of the catheter". As one can see from Figures 6(a) and 6(b), Auth et al. does not disclose a distal opening dimensioned so that a filter can be at least partially retracted inside of it. Guidewire entry opening 56 is adapted to be only large enough to admit the guidewire. Auth et al. teach away from

making this opening any larger: "It has been found that the optimal tracking of the relatively large bore thrombectomy catheter over the small guidewire works best if the wire is held at the outer wall of the catheter tip and the tip is angled back from that point." Col. 4, l. 66 through col. 5, l. 2. If guidewire entry opening 56 of Auth et al. were made larger, it would not hold the wire to the outer wall of the catheter. For the same reasons, Auth et al. teaches away from inserting the guidewire through thrombus entry opening 52, as this would prevent the guidewire from being held at the outer wall of the catheter tip. Unlike Auth et al., either alone or as modified in view of Hopkins et al., the invention of claim 1 provides a device where a filter may be at least partially retracted into the lumen. This provides a means of removing the filter using the aspiration catheter, if desired.

Applicants therefore submit that claim 1 is in condition for allowance. As claims 6 and 28 depend from claim 1 and contain additional elements, applicants submit that these claims are in condition for allowance.

Claim 21 was amended to recite "wherein the distal opening of the catheter is dimensioned so that a vascular filter may be at least partially retracted in the lumen of the catheter". Therefore, for reasons similar to those discussed above with respect to claim 1, namely that there is no motivation or suggestion to modify Auth et al. in view of Hopkins et al., claim 21 is nonobvious over Auth et al. in view of Hopkins et al.

Applicants therefore submit that claim 21 is in condition for allowance. As claims 22 and 29 depend from claim 21 and contain additional elements, applicants submit that these claims are also in condition for allowance.

Reexamination and reconsideration are respectfully requested. It is respectfully submitted that the claims are now in condition for allowance, issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

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By Attorney,

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